DOCUMENT RESUME

ED 416 274 UD 032 137

AUTHOR Rutledge, Valerie Copeland
TITLE A Case Study Investigating the Funding of Public Education K-12 in Urban versus Rural School Systems in Tennessee.
PUB DATE 1997-11-13
NOTE 43p.; Paper presented at the Annual Meeting of the Mid-South Educational Research Association (Memphis, TN, November 1997).
PUB TYPE Reports - Evaluative (142) -- Speeches/Meeting Papers (150)
EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Case Studies; Court Litigation; Educational Change; Educational Equity (Finance); *Educational Finance; Elementary Secondary Education; Finance Reform; *Financial Support; Public Schools; *Resource Allocation; *School District Wealth; *State Legislation; State Programs
IDENTIFIERS Reform Efforts; *Tennessee

ABSTRACT

The public school funding lawsuits that have been filed over the last two decades indicate that many people are not satisfied with the existing levels of school funding. After several years of trying to bring about changes through different avenues, a group called Tennessee Small School Systems filed suit in 1988 to have the system of financing public schools in Tennessee declared unconstitutional. This paper explores events leading to this suit, evaluates its effects, and considers the implications of legislated educational reforms. The Tennessee Small School Systems v. Ned Ray McWherter lawsuit occurred at the same time that a major piece of educational reform legislation was being contemplated by Tennessee's state legislature and senate. When the lawsuit resulted in a decree finding unconstitutional conditions, a mechanism was in place to provide some relief. The resulting Education Improvement Act and its funding component, the Basic Education Program, have made dramatic changes to the level and quality of education being provided to small, property-poor school systems throughout Tennessee. Many constraints that formerly controlled expenditures by local school systems were removed by this act, and the legislation called for more accountability by placing specific responsibilities on local governments, individual schools, and teachers. It may be the next century before a workable solution to school funding equity emerges, but the Basic Education Program at least has begun an effort to meet this need. Four appendixes present the study interview schedule, a summary of the McWherter court case, the Tennessee House of Representatives resolution for the educational improvement act, and a table listing major sources of funding for Tennessee schools. (Contains 3 tables and 29 references.) (SLD)

**********
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
**********

ED 416 274

# A Case Study Investigating the Funding of Public Education K-12 in Urban Versus Rural School Systems in Tennessee

by

Valerie Copeland Rutledge

University of Tennessee at Chattanooga

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

Valerie Copeland

presented at the

Mid-South Education Research Association

Memphis, Tennessee

November 13, 1997

BEST COPY AVAILABLE

UD032137

## Introduction

Throughout the United States, the issue of equitable financing of K-12 public schools is a matter of great concern for state and local governments. School financing has long been an important question for state legislatures and one which has received a great deal of attention, but recent court cases have compelled many states to reevaluate their entire school funding systems (American Legislative Exchange Council, 1989). In 1989, the Kentucky Supreme Court not only declared unconstitutional the entire method of financing public education in that state, but also found that "the Kentucky General Assembly failed to provide a common school system satisfying Kentucky's constitutional mandate for an efficient system of common schools" (Connelly, 1990, p. 22). Many legislators, educators, and other groups in Tennessee looked closely at the issues raised in Kentucky because the public education funding structure in Tennessee closely resembles that of Kentucky. The major similarity is that the property value of various school districts in Kentucky gives some districts greater revenues or resources than others. This same condition exists in Tennessee and other states which depend upon the property and sales taxes for public school funding.

Although many factors related to the Tennessee and Kentucky lawsuits are similar, there are some circumstances which are present which require these two states to be regarded somewhat differently. Kentucky has a lottery, part of the proceeds from which are utilized to help support education, while Tennessee does not offer a lottery. In addition, Kentucky assesses an income tax while Tennessee currently (in 1997) does not assess a statewide income tax. Such differences mean that the resources which are available to fund public education in Kentucky and Tennessee are varied and do not provide exactly the same sources of revenue.

The Tennessee Constitution provides that property shall be assessed on the basis of appraised value at the following rates: farm - 25 percent; residential - 25 percent; commercial - 40 percent; utilities - 55 percent. Since this type of system is used to assess property taxes within Tennessee, the revenues collected in jurisdictions with a higher concentration of commercial and utility property are greater. Thus, since property tax revenues are used to help

fund public education, those areas which have more commercial and/or utility property yield more revenue which can be applied to education. Furthermore, when taxes are levied, commercial property provides an amount 60 percent greater in value than that which is yielded by farm or residential property.

Since most states have some system of property classification for taxation purposes, a disparity of wealth exists between jurisdictions with a higher concentration of farm or residential property and those with a larger portion of commercial property. The result is that certain areas with concentrations of property which are assessed and taxed at a lower rate do not have the financial resources to support their public schools at the same level as those areas which have more property assessed and taxed at a higher rate. Because of assessment rates, some property is assumed to have greater ability to bear taxes, while other property has only minimal value. Property assessed at less value is often concentrated in jurisdictions which raise less revenue. The fact that disparities exist from county to county whenever property taxes provide considerable revenues with which education is funded indicates that this situation will continue to exist as long as this method of educational funding remains in place.

These differences in revenues collected in various counties in Tennessee have created major discrepancies in the dollars available to public school systems. Some of the problems related to these discrepancies have fallen upon the shoulders of different agencies or governmental bodies. For example, in Tennessee, the State Board of Education is entrusted with the responsibility of performing the following duties:

1. Analyzing the financial needs of public schools and studying their use of public funds;

2. Setting policies for the fair and equitable distribution and use of public funds among public schools;

3. Providing recommendations to the various branches of state government and to the local boards of education and superintendents in regard to the use of public funds which are to be used for education; and,

4. Setting funding levels for each necessary resource (classroom components and non classroom components) annually based on the average student population and according to the BEP component cost calculations (Green, 1995).

The other funding source which provides dollars for Tennessee's public schools is the sales tax, a tax which applies to some things and not to others due to certain exemptions which have been granted. For example, all agricultural products purchased by farmers for use on their farms (including feeds, fertilizer, and seeds) are exempt from taxation. In addition, manufacturers do not pay sales tax on anything bought for the purpose of processing or which is a part of the eventual product which will be sold by the manufacturer. These exemptions have the effect of placing the sales tax on the final products of these two groups. As a result, this tax not only does not include all items, but also varies according to the local options which are exercised by various counties and cities throughout Tennessee. Local sales tax rates can vary from 3/4% to 2 3/4 % and are added to the 6% assessed by the State of Tennessee.

The current funding structure for public K-12 education in Tennessee is supported by dollars from three sources: 49.16 percent from state government (primarily from sales tax revenues), 41.47 percent from local governments (primarily property tax revenues), and 9.3 percent from the federal government (The Funding Needs Report for Tennessee Public Schools, 1995). Although these figures are averages for the entire system, the percentages will vary from district to district. The most recent farreaching proposal for educational reform in Tennessee is the Basic Education Program (BEP) passed in 1991, a piece of legislation which addressed many of the perceived inequities which exist in Tennessee. At the conclusion of the 1997-1998 school year, this program will be fully funded through the decisions of the Tennessee State Legislature which outlined and implemented a plan to fully fund the BEP throughout the state five years from its initial effective date in 1992.

## Background of *Tennessee Small School Systems v. Ned Ray McWherter* Lawsuit

The primary source of public school funding at the state level in Tennessee from the 1970s until the early 1990s was the Tennessee Foundation Program (TFP) which was preceded by the Minimum Foundation Program (MFP). The original concept behind these programs was that the responsibility for the funding of education would be divided between the

state and local governments (Annual Report of Funding Needs for Education in Grades K-12, 1989). The Tennessee Foundation Program accounted for approximately 60 percent of the funds contributed to public education by the State of Tennessee and followed an allocation formula based on average daily attendance (49-3-306, Tennessee Code Annotated (TCA)). Because certain factors, such as teacher preparation, were used in making adjustments to the TFP funds given to a school system, this tended to continue the trend of providing more dollars to wealthier school districts since these usually attracted better trained and educated professionals. However, the Basic Education Program proposed a new funding formula which focused on the application of funds where they count the most--on direct student or classroom needs (Green, 1995).

Wide disparities exist among public school systems in Tennessee. This became evident after a study conducted in 1979 concluded that the TFP was "inadequate to meet the expenditure requirements of the local education agencies for the public schools" (Tennessee School Finance Equity Study, 1979, p.38). These disparities were due, for the most part, to differences in local fiscal resources. Although several small counties in Tennessee have exercised an option to assess an additional tax rate, the revenue bases of these counties do not provide adequate financial resources to fund the public school systems in those areas. When a public school system was not able to provide the needed financial support beyond that offered by the Tennessee Foundation Program, the result was that major disparities existed in the quality of education being offered and the types of programs which could be funded by specific public school districts.

In 1988 a group calling themselves the Tennessee Small School Systems (TSSS) filed a lawsuit against the State of Tennessee which sought to overturn the educational funding formula. This case, officially known as *Tennessee Small School Systems v. Ned Ray McWherter*, has also been called the rural versus urban school systems lawsuit because it effectively pitted the smaller, less affluent, mostly rural public school systems of the state against the larger, wealthier, mostly urban school systems (No. 88-1812-11, TCA). At stake

were the dollars expended each year for K-12 students in public schools throughout Tennessee. The case revolved around two issues: (1) the constitutionality of "the present system of financing kindergarten through twelfth grade public education in Tennessee," and (2) the possible remedies which could address this issue (No. 88-1812-11, TCA). Lewis Donelson, a Memphis attorney and former State Finance Commissioner under Governor Lamar Alexander, served as chief counsel for the rural school systems and filed the initial lawsuit on their behalf in 1988. Ernest Kelly from Memphis acted as attorney for the urban school systems. The State of Tennessee and Governor Ned McWherter were represented by State Attorney General Charles Burson and his office.

The background of this case traced the funding of public education in Tennessee back to 1835, when the "Tennessee Constitution established a perpetual common school fund to be used for the support of public schools throughout Tennessee" (No. 88-1812-11, TCA). Subsequent revisions to the language of this original portion of the Tennessee Constitution were made in 1870, and, in 1873, the General Assembly passed "An Act to Establish and Maintain a Uniform System of Public Schools," a comprehensive general education act (88-1812-11, TCA). In cases related to the public schools from 1899 through 1977, many references were made to the provision of "a uniform state-wide system of public education" (88-1812-11, TCA). A 1978 amendment to the Tennessee Constitution omitted the word "uniform" and has been the source of a part of the debate surrounding the *Tennessee Small School Systems v. McWherter* (851 S W 2d 139) lawsuit because the omission of this word led some to argue that uniformity was no longer guaranteed and did not have to be provided.

On July 25, 1991, in Davidson County, Tennessee, a ruling rendered by the Twentieth Judicial District Chancery Court favored the Tennessee Small School Systems and ordered the state legislature to reform the school finance system in Tennessee. Nashville Chancellor C. Allen High changed the course of public K-12 education in Tennessee when he found that 77 rural school districts did not receive their "fair share" of educational funding when compared with their metropolitan neighbors (Chattanooga News Free Press, Aug. 6, 1991, p. A4).



BEST COPY AVAILABLE

Chancellor High stated that "the distinctive function of public education in our society coupled with the express guarantee in the Tennessee Constitution of free public education compels this court to treat it as a fundamental right" (TEA News, 1991, p. 4). Chancellor High's comments following the ruling also revealed his conclusion that the current system of taxation in Tennessee was partially at fault for the discrepancies in funding. He noted that "the great disparity in school funding is due to a taxing and funding system which benefits schools near large retail centers and/or where there is considerable property wealth" (TEA News, 1991, p. 4). An article in the Nashville *Tennessean* went on to say that the ruling could have far-reaching implications for education and taxation in Tennessee and could dramatically impact "the way Tennessee balances the needs of poor rural areas with rich urban centers" (Cheek, 1991, p. A-1).

The Chancery Court ruling in July 1991, which declared the K-12 public education funding formula unconstitutional, was followed by additional legislative hearings. The passage of the Education Improvement Act in 1992 (of which the Better Education Program is the funding piece) created many changes which affected the public schools of Tennessee. In March of 1993, The Tennessee Supreme Court upheld the Chancery Court's 1991 decision that the public education funding plan was unconstitutional. As a direct result of that ruling, major alterations were made in the K-12 public education program in Tennessee in the form of the Educational Improvement Act (EIA). This major piece of education reform (passed by the Tennessee General Assembly during the 1991 session) addressed several areas of education, particularly the funding formula which determines the amount of state money appropriated for each public school system (Tennessee Teacher, 1993). The *Tennessee Small School Systems* lawsuit was a due process issue. The State government was only seeking fiscal equity by passing the Education Improvement Act and did not attempt to address all other factors which may contribute to the disparities between public systems across the state.

A significant part of this law was the most recent far-reaching proposal for educational financial reform in Tennessee: the Basic Education Program (BEP) passed in 1991. The BEP

contained the funding formula which ensured that each of the state's existing 139 school districts would receive an increase in education money (Chattanooga News Free Press, Sept. 12, 1991). It further required the state to fund 75 percent of classroom components and 50 percent of non classroom components; the local systems fund 25 percent of classroom components and 50 percent of non-classroom components (Green, 1995). The proposal for this program was made in an effort to offer a funding plan which would satisfy an anticipated court order to bring Tennessee's public school systems to equalized funding (TEA News, 1992). This piece of legislation addressed many of the perceived inequities which existed in Tennessee. The Tennessee state legislature outlined and implemented a plan which proposed to fully fund the BEP throughout the state five years from its initial effective date in 1992 (Table 1).

Table 1: Timetable of Events Leading to Tennessee Small School Systems Lawsuit and Passage of Basic Education Program

| Year | Month/Day | Event |
|---|---|---|
| 1988 | July 8 | Small Schools Lawsuit: Original complaint filed |
| 1990 | July | Chancery Court ruled K-12 education funding unconstitutional |
| 1991 | February 6 | Education Improvement Act (EIA) introduced |
| 1992 | March | EIA passed |
| | April 1 | Sales tax increase of half-cent effective (all revenue generated earmarked for education) |
| | July 1 | EIA effective: Basic Education Program (BEP) begins, Education Trust Fund established, special revenue fund for BEP established |
| 1993 | March | Tennessee Supreme Court held that pre-BEP education funding was unconstitutional |
| | April 13 | Sales tax increase made permanent |
| 1994 | April | HJR 191: A Report to the General Assembly: Accountability for Funding Education in Tennessee, TACIR 1994 |
| 1995 | February | Tennessee Supreme Court ruled that teachers' salaries equalization must occur according to the BEP formula |

Source: Funding Tennessee Schools: From Reform to Restructuring, 1995

On July 26, 1993, Chancellor C. Allen High was asked to alleviate the financial burdens of the rural school systems in Tennessee even sooner than called for by the earlier ruling in the *Tennessee Small School Systems* case, but he declined to do this. Although a plan was included in the Basic Education Program (BEP) which would phase in adjusted funding levels over a five-year period, supporters of the smaller systems argued that this was not really soon enough. In the meantime, the old method of distributing monies, the Tennessee Foundation Program (TFP), would remain in effect until the BEP was fully implemented by the conclusion of the 1997-1998 school year (TEA News, 1993).

One of the most important factors related to public education funding is the impact educational preparation can have on a young person's future. As far back as the early 1960s and even much earlier, education was considered an economic investment. Since that time, the impact an education can have on an individual's potential future earnings has been studied at great length. Alexander (1976) noted that "Education benefits cannot be measured solely on the basis of monetary returns to the individual or to society. Justification for investment in education may be found to a great degree in non-monetary external benefits" (p. 439).

Meanwhile, the problem of "disparity" which continues to plague the public schools in Tennessee is a result of several factors. The property tax base differs dramatically from county to county. In addition, in Tennessee in 1990, 32 of the 95 counties within the state operated more than one public school system, but this number continues to decline as more counties merge or consolidate the public school systems operated within their boundaries (Young, 1990).

The dollars states contribute to public education have consistently increased, and states continue to contribute a larger portion of the monies needed for public education. In Tennessee, for example, the state support for education has increased from 40.7 in 1991-92 to 49.5 in 1993-94 (Green, 1995). With many agencies and concerned groups calling for more teacher accountability, more parental choice of schools, and more positive results from standardized measurements and other evaluation instruments, the current series of debates and

problems related to the funding of education has led to more efforts on the part of legislators to attain more equitable funding.

## Statement of the Problem

The total impact of the Basic Education Program (BEP), as it relates to the *Tennessee Small School Systems* lawsuit, is unknown at this time. The implications of the impact the BEP should have are not just a function of dollars because some of the disparities which existed and led to the filing of the lawsuit were a function of other factors, such as educational opportunities and teacher training of those educators employed in the less wealthy systems.

## Purpose of the Study

The purpose of this study was to collect and compile records and history relating to the events leading to the *Tennessee Small School Systems v. Ned Ray McWherter* (851 S.W.2d 139) lawsuit in order to describe the events which led to this lawsuit; to evaluate the effects of the lawsuit (paying special attention to the legislation of the Educational Improvement Act and the Basic Education Plan) on school funding; and to forecast the implications of this lawsuit for Tennessee K-12 public education.

## Limitations

The following limitations were identified as relevant to the results obtained from this study. The information is specific to Tennessee public K-12 school systems and the related lawsuit. As stated earlier, all K-12 public school systems were included in the information compiled and analyzed in this study. Specifically, Shelby, Knox, Davidson, and Hamilton counties were studied in detail as the urban areas of this study while many of the remaining systems comprised the group of selected rural counties which were included in the lawsuit brought against the State of Tennessee. Another limitation of this study is that it includes information about Tennessee counties studied from 1991-1997 (some projected figures were available for 1996-1997).

The study was limited to the data collected about selected counties in Tennessee and included information obtained from documents and financial records of public school systems



BEST COPY AVAILABLE

and the State of Tennessee. Information was limited to that provided by the documents and legal records studied, as well as to the interviews conducted. Finally, personal interviews with significant figures provided information about specific details relating to this case.

## Methodology of the Study

The procedures which were employed in collecting data, performing calculations and compiling information needed to provide answers to the research questions associated with this study included gathering data from various sources, including personal interviews, documents from state and local government, and copies of cases involving public education funding. The compilation of this information permitted the analysis and explication of the facts and events leading up to the *Tennessee Small School Systems v. McWherter* (851 S.W.2d 139, 1993) lawsuit. Following are the research questions used in this study:

**Question # 1.** What circumstances led to the lawsuit filed by the small school systems in Tennessee in 1989 challenging the formula for funding public education K-12?

**Question #2.** What were the effects of *Tennessee Small School Systems v. McWherter* on K-12 public education in Tennessee?

**Question #3.** What are the implications from the resulting decision rendered by Chancellor High and upheld by the Tennessee Supreme Court which mandated significant changes in the structure of K-12 public education funding in Tennessee?

**Question #4.** What are the implications of *Tennessee Small School Systems v. McWherter* f for public education in Tennessee?

Interviews conducted with individuals who played specific roles in or were indirectly involved in or affected by the lawsuit provided personal perspectives of the preliminary and subsequent events. In addition, information collected allowed the researcher to trace changes which have occurred in Tennessee K-12 public school funding since the 1992 Education Improvement Act implemented a new funding structure under the Basic Education Plan (BEP).

## Data Collected

Much of the data for this research was archival. The statewide documents on public school funding, school performance, per pupil expenditures, average teachers' salaries, and average daily membership and the like were provided by the staff of the Tennessee Legislature. These data are routinely used for system by system, county by county, and state by state comparisons. Moreover, these data were used in the *Tennessee Small School Systems v. McWherter* lawsuit because they go to the heart of state efforts to provide equal access and quality educational experiences for all of Tennessee's school-age children. The following information was required:

1. A list of all public K-12 school systems in Tennessee in 1992.

2. School system budget information for 1990-91 (to correlate with the lawsuit) for those systems which had been identified as appropriate for the sample which comprised the focus of this study. Budgets for each of the subsequent years (1991-97) following enactment of the BEP were also obtained and, when necessary, projected figures were used.

3. Per pupil expenditures (PPE), school services, resources, facilities, programs, property tax and other revenues collected, Average Daily Attendance (ADA), and Average Daily Membership (ADM) figures for 1990-1996 for each system included in this study were obtained and analyzed.

4. Copies of all cases included in this research study which might have served as possible reference points for major issues raised in the *Tennessee Small School Systems v. McWherter* lawsuit were obtained from the Atlantic, Northeastern, Northwestern, Pacific, Southeastern, Southern, and Southwestern Reporters and reviewed.

5. Responses to interview questions administered to individuals identified as playing specific roles in the Tennessee Small School Systems lawsuit were transcribed from personal interviews. Data were collected through face to face interviews or telephone interviews. The method of interview was dependent on the location and time constraints of the participant. Elites were chosen based on their positions during the lawsuit. The researcher conducted a total of 22 interviews.

Three small school systems were selected at random from the group of 77 which eventually comprised the plaintiffs' group in the *Tennessee Small School Systems v. McWherter* (851 S.W.2d 139) lawsuit. These systems were Hickman County, Union County, and Van Buren County. Crockett County was included because the superintendent of this system was the driving force behind the lawsuit. Also, four of the largest school systems

(Hamilton County, Davidson County, Shelby County and Knox County were included as representatives of the urban schools which organized and assumed the role of intervenors during this case.

## Significance of the Study

This study is significant because the information collected presents a picture of the history of funding for public education in Tennessee; reviews the different amounts of revenues afforded counties throughout Tennessee; and provides specific and current data about distribution of those revenues. Furthermore, the Basic Education Program (BEP) is described as it relates to the funding of public education and its potential impact on K-12 education in Tennessee. The current status of this five-year reorganization plan is noted and presented.

## Historical Overview of the Study

The financing of public education is one of the most significant responsibilities entrusted to the government of the individual states within the United States. "The education function, perhaps more than any other, places emphasis on the flow of funds between the various levels of government" (U.S.Bureau of the Census, 1988, p. vii). Success is frequently linked to academic advancement and an educated citizenry, and better educated individuals can help by providing a better trained, more skillful labor force.

In Tennessee, the funds which support public education are provided primarily by the state. All counties within the state are obligated to operate a public school system with other jurisdictions having the right to do so if they desire. In spite of this mandate, monies provided by various governmental agencies on all levels do not supply the revenue needed to initiate and maintain all programs which each school system or each individual school chooses to support. The State of Tennessee has, to a significant degree, delegated the operation of local education systems to local educational agencies (LEAs).

County school systems in Tennessee are dependent upon the county commission (formerly the county court) as the body which determines funding for the school systems



BEST COPY AVAILABLE

(Reddick & Peach, 1981). The section of the Tennessee Code Annotated (TCA) which addresses this responsibility indicates that the county shall:

> . . .require the superintendent and chairman of the local board to prepare a budget on forms furnished by the commissioner of education, and when said budget has been approved by the local board, to submit same to the appropriate local legislative body. The county board of education shall submit its budget to the quarterly county court no later than forty-five (45) days prior to the July term of court or forty-five (45) days prior to the actual date the budget is to be adopted by the quarterly county court if such adoption is scheduled prior to July 1 (Acts 1925, ch. 115, 6; Shan. Supp., 487a35; Code ch. 175, 1; 1975 (Adj.S.), ch. 654, 14-20; 1975, ch. 56, 1; modified.)

The property tax, which began as a land tax during the colonial period, became a tax on tangible and intangible personal property by the time of the Civil War (Alford, 1963). Even though this tax was even then viewed as inequitable, it remained the major source of tax revenue for state and local governments until the 1920's (Alford, 1963). Beginning with the 1930's, the amount of money generated by the income tax and the general sales tax (which was not implemented until the 1940s) reduced the significance of the property tax until, by 1942, the general property tax amounted to only 3.8 percent of all state revenues as opposed to 42.7 percent in 1902 (Alford, 1963). This conscious attempt on the part of the states to ease the property tax burden shifted the use of the revenues collected from this source almost entirely to the local level of government, and thus to the schools (Alford, 1963). With this decrease in emphasis came an inherent limitation on the funds which can be generated by this instrument.

In Tennessee the maximum sales tax rate until 1992 was 5.5 percent state tax with a local option of 2.75 percent (or one-half the state rate) available. In addition, a .5 percent temporary sales tax (set to expire June 30, 1993) was added by the state legislature to help with educational funding in 1992. This increase in the sales tax was extended temporarily by the legislature and was made permanent in 1993. "The perception of many local elected officials is that the financing of public education is primarily a state function" (Reddick & Peach, 1981, 8). Therefore, the equalization of funding for public schools throughout the state becomes the responsibility and obligation of state government.

Of all the variables which affect American society, "education spending is among the most accessible and more directly affected by the public governance process" (Bird, 1983, p.

3). School systems in small communities can often be the largest employer, the method of providing purchasing power, and the means by which the community may share common interests. This fact may give extra weight to the argument that these county school systems are not being funded adequately if they are the primary employer of an area.

Legal challenges which have emerged over the past 25-30 years have focused public attention on the funding of public schools. The wide variations among school districts within a state have resulted in court cases in which have found the existing school financing systems unconstitutional in Montana, Texas, Tennessee, Kentucky, and New Jersey (Jordan & Lyons, 1992, p. 5). Currently, educational programs utilize funds to provide more specialized types of services than ever before; the numbers of handicapped students, students attending kindergarten, and high school graduates have increased substantially over the past 25 years.

The successful, effective, and efficient operation of a public school system is dependent to a large degree on adequate funding. Financial decisions made by state legislators, federal lawmakers, and taxpayers determine the dollars available to public school systems. As a result, they affect the allocation and expenditure of monies and control the funds which are utilized by public schools. A study conducted in the late 1970s indicated that "the property tax was considered the most important source of revenue for public education in Tennessee, closely followed by the sales tax" (Reddick & Fletcher, 1979, p. 9).

Education is commonly regarded "not only as the source of training for one's later occupation, but also as the vehicle of economic mobility" (Grubb & Michelson, 1974, p. 3). "Beginning with *Brown v. Board of Education* in 1954, those who were sincerely interested in providing equal education to all, have sought the help they needed in the courts rather than in the legislatures" (Grubb & Michelson, 1974, p. 4). Even more recently, a series of California cases (*Serrano v. Priest* -1971 to 1977) presented the idea that a public school financing system may deny children equal protection of the laws because it produces substantial disparities among school districts in the amount of revenue available for education. In the first Serrano case (*Serrano I*), the court ruled that the 14th Amendment to the U.S. Constitution could not

serve as the basis for arguing that the school financing plan in California did not provide equal protection. The second Serrano case (*Serrano II*), was not decided until more than seven years later (Jordan & Lyons, 1992). The final decision set the guidelines for future cases related to public school funding.

However, part of the problem with mandating equality in education is that the resources and the clientele with which educators work are so varied that the final product is likely to be just as diverse. Lester Ward once stated that "from an economic point of view, an uneducated class is an expensive class." He further suggested that one need only look at the large numbers of high school dropouts who now populate the prisons and whose names fill the welfare rolls to understand the truth of this statement. Despite the establishment of state aid funds for education as early as 1834, state revenues made up only a very small portion of total revenues (2.8 percent as late as 1915.) "Support of education in the South became more and more dependent on the state after 1900" (Grubb & Michelson, 1974, p. 27). Although state support for education grew after 1920, substantial inequities still remained. "The data on state and local tax trends suggest that continuous change in these levels is certain to take place; therefore, with both state and local governments attempting to gain both revenue and economic advantage, the rate at which this change is taking place may accelerate" (Zlatkovich & Putnam, 1989, p. 15).

Although equity is frequently mentioned as the goal of education, agreement does not exist among school finance experts, teachers, or even citizens about what equity actually means. In the arena of school finance, equity means "equal treatment of persons in equal circumstances" (Jordan & Lyons, 1992, p. 23). From the pupil's viewpoint, equity means "sufficient funding to ensure equal access to educational opportunity" (Jordan & Lyons, 1992, p. 23). The taxpayer often believes that equity means "taxes should be equal regardless of one's taxing jurisdiction" (Jordan & Lyons, 1992, p. 23). Such factors as weighting of pupils can have a direct impact on the funding required by certain school systems and can do much to alter the concept of equity. The many different concepts of equity are important concerns in

school finance. The efforts to reduce or eliminate the disparities in per pupil expenditure involve equalizing fiscal capacities among school districts (McMahon & Geske, 1982). "Two different types of equity in educational finance have emerged: horizontal, which focuses on the differences in per-pupil expenditures in districts, among districts, within districts, and across states, and sometimes includes an assessment of the differences in outcomes; and vertical, which focuses on intergenerational equity and unequal ability to pay" (McMahon & Geske, 1982, p. 190).

Erick Lindman questioned the validity of the assumption that each school district had the same proportion of property tax base available in all school districts to finance schools. He noted that rural school districts did not have as heavy a property tax burden for non-school local government costs as municipal districts, and he also noted that municipal districts varied in the ratio of school costs to municipal costs. However, something he failed to note was that not all school district lines coincide exactly with the boundaries of a municipality (McMahon & Geske, 1982). Therefore, it is not possible to predict precisely the amount of revenue that may be obtained by a school system because it may not encompass the same area a municipality or other revenue-generating unit may. This theory appears to be in direct conflict with the current idea that many have expressed in regard to the fact that rural school districts have a much smaller amount of revenue coming in from property taxes than do municipal or suburban districts. Small, i.e. usually rural, Tennessee school districts have less revenue because they have a smaller tax base; the base is small because of the assessment rate, exempt property, and reduction of assessed value through the "Green Belt." The result is that an area which may be larger in size due to the amount of land which is utilized for farming may actually produce fewer tax dollars because it is assessed at the lower rate.

The assessment of the ability of a locality to support a school system could involve the discussion of many factors, including:

1. The equity of property taxes as compared with other types of taxes, such as personal income taxes, corporate income taxes, sales taxes, and excise taxes.



BEST COPY AVAILABLE

2. The appraisal of the effect of different levels of property taxation on the economic growth of local taxing units.

3. An analysis of the competition of local boards of education with other units of local government for the property tax.

4. Effects of all programs of federal, state, and local taxes on public-school financing (Johns, 1965, p. 92).

R. L. Johns argued as early as 1963 that "with the passage of time the possession of property is becoming a less valid measure of local taxpaying ability" (1965, p. 94). The property tax, which accounts for approximately 80 percent or more of all local governmental tax revenue, has proved to be the most common source of funding for education. For those school districts which are financially independent, the property tax may comprise over half of the revenues received by these districts (Alford, 1963). However, the attempt to tax all property uniformly has resulted in serious problems both from a theoretical and a practical perspective. Although many critics believe the property tax is not the most sound method of funding education, nevertheless they seek reform rather than abolition of this source of revenue. Some of the positive factors cited in regard to this tax are:

1. It is adaptable to school districts of all sizes from the point of view of administration.

2. The tax is normally administered by another level of government.

3. The amount of yield of the property tax is so great that no full substitute for it could be found which would not present problems and inequities which would be different, but equally as severe, as the property tax (Alford, 1963, p. 13).

**Related Lawsuits**

The last thirty years have been filled with many significant changes in public education. Since the late 1960s, numerous lawsuits have been filed which have challenged the constitutionality of the funding formulas in various states. Kentucky, Texas, Alabama, and Tennessee are among the most recent cases. Part of the decision related to each of these has addressed the constitutionality of the existing public school system. As a result, each of these has also involved the funding methods being used by those states (Table 2).

Table 2: Important Cases in the Evolution of School Finance Litigation in the United States

| State | Case Name(s) | Date(s) |
|---|---|---|
| California: | Serrano v. Priest (I, II, III) series | 1971, 1976, 1986 |
| Texas: | San Antonio Indep.Sch. Dist. v. Rodriguez | 1971, 1973 |
| New Jersey: | Robinson v. Cahill series | 1972, 1973, 1976 |
| Connecticut: | Horton v. Meskill series | 1973-1985 |
| Wisconsin: | Kukor v. Groves | 1989-90 |
| New Jersey: | Abbott v. Burke series | 1989-90, 1994 |
| Montana: | Helena v. Montana | 1989-90, 1993 |
| Texas: | Edgewood v. Kirby series | 1989-90, 1994, 1995 |
| Kentucky: | Rose v. Council for Better Schools | 1989-90 |
| Tennessee: | TN Small School Systems v. McWherter | 1993, 1995 |
| Massachusetts | McDuffy v. Sect. of the Exec. Off. of Educ. | 1993 |
| Arizona: | Roosevelt Elementary School v. Bishop | 1994 |
| Virginia: | Reid Scott v. Virginia | 1994 |

Source: Funding Tennessee Schools: From Reform to Restructuring, 1995

Litigation regarding school funding is currently pending in several states. The traditional property-tax/sales tax system of financing public schools has come under attack in at least 41 states (Henderson, 1993). As these cases continue to be heard and adjudicated, several have even reached as far as their state supreme courts, and reforms of a wide variety are being proposed and implemented. "The primary objective behind these suits is an effort to achieve greater equity in funding for public education" (Henderson, 1993, p. 1). Because of the numerous cases and the myriad attempts which have been and continue to be made to correct the disparity between systems within states, some have echoed the sentiments of Ernest Boyer, head of the Carnegie Foundation for the Advancement of Teaching, who questioned "whether we are smart enough to design a better way to fund public education" (Henderson, 1993, p. 1).

For most states, including several in the southeast, the attempt to create a system which will afford more fairness in school funding is still in the early stages. Lawsuits which have been brought by different groups are most likely to be resolved at the state level. As long ago as 1973, the U.S. Supreme Court refused to hear the *Rodriguez v. San Antonio* case, a funding equity case, because "a right to equality could not be found in the U.S. Constitution" (Henderson, 1993, p. 2). The groups which have tended to emerge to support adjustments in

the funding formulas and methods often represent small, poor, rural school systems opposing large, wealthy, urban or suburban school systems.

Words like "adequate", "equitable", and "fair" abound in the cases brought by those public school districts which are less affluent in hopes that they may be able to effect a fairer distribution of monies. In spite of the fact that many options and alterations have been proposed, there are some who believe like Alan Hickrod, director of the Center for the Study of Educational Finance at Illinois State University, that public education must "move off the property tax and onto state sales and income taxes" (Henderson, 1993, p. 3). However, in those states where a state income tax does not exist, that idea becomes much more difficult to implement or even to contemplate. Most lawmakers prefer to work within the existing framework of available revenues and seek to find a workable method of distribution rather than face the wrath of constituents who do not want to pay yet another statewide tax.

Included in those states where litigation is pending but where a supreme court decision has not been rendered are Alabama, Missouri, and Virginia, among others (Henderson, 1993). The traditional rural public school systems which have existed in these southern states have, in recent years, begun to question and challenge public school funding laws which do not provide their students with the same level of financing available to those systems which contain students from wealthier, more urban systems.

Some states have even sought to escape this nightmare of immense proportions by amending their constitutions. Alabama adopted an amendment in 1986 in an attempt to absolve the state of its responsibility to maintain a public school system. However, this attempt by the Alabama State Legislature to avoid major public education finance reform was not successful because the Alabama courts declared the amendment unconstitutional. In almost every instance, the alterations and proposals for change in public school financing have come about as a result of a threat of or the actual filing of a lawsuit challenging the existing system.

The Education Reform Act of Kentucky required that the General Assembly guarantee a base amount of money to educate every pupil, regardless of the physical location of that



BEST COPY AVAILABLE

school. The Kentucky Supreme Court ruled that "the system of common schools must be adequately funded to achieve its goals. The system . . . must be substantially uniform throughout the state . . . . (E)very child . . . must be provided with an equal opportunity to have an adequate education" (*Rose v. Council for Better Education, Inc.*, 790 S.W. 2d 186). Another portion of this act required that local school systems raise a part of this amount and the state provide the balance. In those areas of Kentucky which are poorer, public school districts have been provided more state money to insure that the level of funding would be equal with that provided more affluent districts (Kentucky Legislative Research Committee, 1990).

The school funding changes which have taken place over the past quarter of a century have been necessitated by the increased cost of schools and the costs associated with the special services which government dictates must be provided for certain groups of students. Financial resources are not the only diminishing or scarce resources, but they are certainly among those which have the greatest impact on the performance of school districts and upon their ability to offer a high quality school instructional program.

On July 25, 1991, in Davidson County, Tennessee, a case was filed in the Twentieth Judicial District Chancery Court which changed the course of public education in Tennessee. Crockett County School Superintendent Bill Emerson, a plaintiff who testified in the original lawsuit, believed that the problem with inequities in Tennessee K-12 public school funding "[was] going to get worse" unless the local-option sales tax was replaced sooner than 1997 as a primary funding source (TEA News, 1993, p. 5). In attempting to reach a decision which would prove workable for all parties involved, Chancellor High's ruling addressed constitutional as well as educational considerations.

Among the major differences which resulted from this case could be the demise of the local option sales tax The interpretation of State Attorney General Charles Burson that "the financing allocation provisions of the . . . TCA 67-6-712 (local option sales tax)" were unconstitutional directly impacts the sources of revenue which will be made available to local

governments for funding schools in the future (Chattanooga News-Free Press, August 6, 1991, pp. 1-2).

**Analysis of Data and Interviews**

The focus of this study was an evaluation and analysis of the methods of funding public education in specific school systems in Tennessee with an attempt to identify differences, the reasons for those differences, and any changes in revenue-generating instruments or dollars available which have occurred as a result of the implementation of the BEP. The research also included quantitative data for the 1990-1997 school years regarding the methods and sources of funding for K-12 public education in the identified Tennessee school systems. These figures provided a basis for comparison of the patterns of funding during this period. Interviews were sought with specific individuals and interview transcripts were analyzed utilizing the following steps:

a. Data Reduction - Specific details were selected, focused, simplified, abstracted, and transformed into usable form.
b. Data Display - Some extended text was included, but most responses were compiled into an "organized, compressed assembly of information" (Miles and Huberman, 1994, p. 11).
c. Conclusion Drawing and Verification - Interpretations were made and verified by referring back to original transcripts of comments/reactions of the interviewees.

Since the qualitative data collected focused on individuals' perceptions of events surrounding the *Tennessee Small School Systems* lawsuit and implementation of the BEP, different perspectives sometimes emerged regarding the same situations and their impact on K-12 public education in Tennessee. Use of contextual evaluation of the BEP by those individuals interviewed was employed in an attempt "to understand how programs work, how they fit into particular settings, how they achieve results, and how they can be improved" (Conner, 1981, p. 49).

The final phase of the study involved analyzing existing revenues and programs funded by the BEP and suggesting possible changes in the types of revenue-generating instruments or methods used to fund K-12 public education in Tennessee. Specific attention was also given to any obstacles present which might prohibit or interfere with these proposed changes. These included, but were not limited to, any political pressures or personal perceptions which may

have affected the unbiased and fair implementation of this program throughout the State of Tennessee. Some of this information was gleaned from personal interviews.

## School Funding in Tennessee

Tennessee's first public education fund was established by the General Assembly in 1909. Even at this early date an effort was made to achieve some sense of equalization. Ten percent of the Tennessee Education Fund was set aside and designated for those school systems which had low taxable property wealth (Green, 1995). Subsequent laws were passed which also addressed the inequality of property taxes collected in various areas throughout the state. All efforts to equalize funding for schools met with problems which were inherent in the property and local sales taxes, the primary sources of revenue for public education. Even such factors as the aggressiveness of a local tax assessor in collecting overdue payments had an impact on the funding provided for local schools. Those individuals who vigorously sought to collect all taxes usually had more money available in their counties than those who did not attempt to collect all taxes which were owed (Table 3).

Table 3: Evolution of Tennessee's School Funding

| Year | Event |
|---|---|
| 1909 | Tennessee General Assembly addressed the issue of "Equalization" |
| 1925 | Minimum Foundation Program (MFP) established |
| 1947 | Tennessee introduces first sales tax to fund education |
| 1972 | Tax Modernization and Reform Commission |
| 1973 | Comprehensive Funding Reform in Vocational/Technical Education |
| 1977 | Tennessee Education Finance Act: establishes Tennessee Foundation Program |
| 1979 | Tennessee School Finance Equity Study |
| 1988 | Tennessee Small Schools lawsuit filed |
| 1991-92 | Education Improvement Act-BEP created |
| 1992 | Half-cent sales tax: Dedicated Education Fund (4/1) |
| 1992-93 | BEP implemented |

Source: Funding Tennessee Schools: From Reform to Restructuring, 1995 Research



BEST COPY AVAILABLE

## Summary of Research Findings

**Research Question #1:** What circumstances led to the lawsuit filed by the small school systems in Tennessee in 1989 challenging the formula for funding public education K-12?

**Summary of Research Question #1:** In 1988, of 77 small school systems filed suit seeking to have Tennessee's education funding scheme declared unconstitutional. Led by Superintendent Bill Emerson of Crockett County, the Tennessee Small School Systems (TSSS) hired Mr. Lewis Donelson as their attorney and obtained the services of Dr. Kern Alexander as consultant. Dr. Alexander's served as consultant in *Rose v. Council for Better Education* in Kentucky, just one of a series of court challenges to public education funding. Although the lawsuit was generally described as "amicable," some participants identified the State of Tennessee's approach as a "scorched earth" defense which was intended to outlast the TSSS. A group of nine large, mostly urban school systems organized as intervenors and joined the State of Tennessee as defendants. The case sought to establish the unconstitutionality of the state public education funding scheme, and the TSSS hoped this would lead to additional funds being provided to the smaller, less affluent systems.

**Research Question #2**: What were the effects of the *Tennessee Small School Systems v. McWherter* case on K-12 public education in Tennessee?

**Summary of Research Question #2:** Chancellor C. Allan High ruled that the public education funding system in Tennessee was unconstitutional. At the same time that the *Tennessee Small School Systems v. McWherter* lawsuit had been making its way through the legal system, Governor Ned Ray McWherter had presented an educational reform plan to the legislature. The components of the Education Improvement Act included a Basic Education Plan which addressed school funding and proposed a new method of distributing funds to Tennessee's schools. Several individuals involved in the lawsuit (including Dr. Brent Poulton, Commissioner Charles Smith, and former Attorney General Charles Burson) believe an alternative funding plan would have been enacted without the pressure of a lawsuit, but this case served as an impetus for the legislature to act more quickly. The plan enacted by the

general assembly met the requirements established by Chancellor High and was to be phased in over five years. Although the plaintiffs returned to court requesting immediate full funding, the court declined to alter the original time frame which had been adopted. This marked the first school funding case which had been decided for the plaintiffs and in subsequent cases, some courts have referred to it when noting the reasons for their final rulings for the plaintiffs.

**Research Question #3:** What are the implications from the resulting decision rendered by Chancellor High and upheld by the Tennessee Supreme Court which mandated significant changes in the structure of K-12 public education funding in Tennessee?

**Summary of Research Question #3:** The Tennessee Foundation Program (TFP) which had provided the Tennessee General Assembly maximum flexibility in education funding was actually cited by Chancellor High as one of the reasons the court decided for the plaintiffs in the lawsuit. The disparity which resulted from the enormous differences between counties in fiscal capacity meant that significant differences in education funding levels existed. Using 1991 as a benchmark, the legislature enacted the Basic Education Plan as a new funding formula for K-12 public education. Although this does provide a safeguard for many of the larger systems because they can not fall below the 1991 amount, these systems have received smaller increases under the BEP than they would have under the TFP. The five year phase-in of the BEP is scheduled to be complete in 1997-98. If full funding occurs, this will indicate that Tennessee's Legislature has seen this commitment through from its initial proposal until its full implementation. Concern exists that sufficient dollars may not be available to fully fund the final year of the BEP.

**Research Question #4:** What are the implications of *Tennessee Small School Systems v. McWherter* for public education in Tennessee?

**Summary of Research Question #4:** Comparison of a wide range of categories in public education in Tennessee reveals dramatic gains in many different areas, particularly in class size reduction. The BEP and additional earmarked revenue from the sales tax increase have enabled school systems to take steps to make improvements in programs, equipment, and capital

building projects, to name a few specific areas. School systems can plan for the future on the basis of projected dollars that they know will be forthcoming. The full implementation and funding of the BEP will represent almost 200 million new dollars for Tennessee's public schools. A major difference between the results of the BEP and earlier reforms is that the impact of the BEP directly affects the classroom rather than teachers' salaries. Equalization of teachers' salaries remains an issue which is not fully resolved and may result in additional litigation. Concern remains about the future of K-12 public education funding in Tennessee and whether the legislature will continue to remain vigilant to insure that schools are properly funded and supported. The *Tennessee Small School Systems* lawsuit provided a high profile for K-12 education; one which many hope will remain at the forefront of the legislative agenda.

**Summary**

As the century draws to a close, education overall and education finance specifically are top priority concerns across the United States. Presidents, governors, legislators, and local politicians recognize that this area will continue to merit increased attention and interest. The decline in federal funding for education indicates a shift in much of the control of education from the federal to the state level. It is now up to the individual states to shoulder this responsibility and react to the crisis which lies ahead.

The numerous public school funding lawsuits which have been filed over the last two decades indicate that people are not satisfied with the existing levels of funding. These persons, either as individuals or as members of organized groups, have sought various types of judicial relief. As a result, several education reform movements across the United States have resulted in new and different state funding schemes.

After several years of attempting to effect change through a variety of different avenues, a group called the Tennessee Small School systems filed suit in 1988 to have the K-12 public school financing scheme in Tennessee declared unconstitutional. The *Tennessee Small School Systems v. McWherter* lawsuit occurred at the same time that a piece of major educational reform legislation was being contemplated by Tennessee's state legislature and senate. When

the lawsuit resulted in a decree finding unconstitutional conditions, a mechanism was already available which could provide some relief. The resulting Education Improvement Act and its funding component, the Basic Education Program, have made dramatic changes in the level and quality of education being provided to small, property-poor school systems throughout Tennessee. Not only does this piece of legislation attempt to provide some financial equity for school systems of all sizes throughout the State of Tennessee, it also addresses other components of the school program. Many of the constraints which formerly controlled the expenditure of dollars by local school systems were removed by this act, providing greater flexibility and more autonomy for local education agencies. In addition, the EIA calls for more accountability by placing specific responsibilities on the local governments (such as reducing teacher:pupil ratios) and on individual schools and teachers (through value-added assessment and evaluation of weak areas demonstrated by this tool).

Tennessee's case marked a change in direction from earlier school funding lawsuits. Earlier cases had tended to find for the defendants, but *Tennessee Small School Systems v. McWherter* was decided for the plaintiffs, a fact which did not go unnoticed by other states either contemplating or already embroiled in school funding issues. In spite of the fact that several other states had also faced school funding lawsuits and some similarities existed between their states and Tennessee, none of these cases served as specific models for the case heard in Tennessee. The broad reform enacted by the Tennessee legislature addressed much more than just the funding issue and sought to make significant and lasting change in K-12 public education in the state. Tennessee's lawsuit remains under the jurisdiction of the court until the final year of funding, fiscal year 1997-98. At that time the court will review the situation and determine if it will retain control or if Tennessee's legislature has indeed fulfilled its obligations to the students of this state.

A variety of alternative funding methods must be investigated to determine their potential for application to school finance. No single, simple answer exists to the funding problems facing public K-12 schools in Tennessee or, for that matter, anywhere in the United

States. Those who advocate continued use of the property tax as the main source of local revenue argue that it is actually the only source of revenue which local units are competent to administer. However, the disadvantages of the property tax are several. Not only does it tend to be a regressive tax, but it is also an imperfect measure of the ability of a certain area or group to pay. Others argue that this tax responds slowly to economic growth. Although the name implies that this tax may be assessed on any property or wealth, in reality it is most often imposed only on real estate. One advantage of this method of taxation is that it offers ease of collecting information. Yet viable alternatives do exist. These alternatives are what this research effort attempted to identify and address in terms of advantages and/or disadvantages.

## Discussion

A goal of this research was to determine the impact passage of the Basic Education Program has had on K-12 public education in Tennessee. In the face of current upheaval and questions surrounding the future of funding for K-12 education, it may be the next century before a workable solution emerges from the many court cases which have dealt with the different methods of paying for public elementary and secondary education, but the current Basic Education Program has at least begun an effort to meet this need.

Because much of the fiscal structure of local government, and particularly public education, relies upon the property tax, prospects for major alterations in the funding of public education do not appear promising at this point. The establishment of many new and ambitious goals are a compelling reason for reevaluating the present system of educational funding. Budgetary shortfalls and difficulties which emerged in the 1980s indicate that specific programs and legislation may be required to solve problems, to improve educational programs, and to increase the proportion of state tax dollars going to public education K-12 during the 1990s and beyond.

In spite of the never-ending concern over the amount of money poured into education, some research has consistently revealed that levels of school expenditures are not systematically related to student performance. Although level of expenditures is an easily

measurable index, it may not prove to be the major difference between a successful school system and one which does not achieve its primary objectives. One thing is certain: the dollars which have been so elusive during the 1980s and 1990s will continue to be difficult to find into the next century. As a result, financing of the public schools will remain a challenge for administrators, school boards, and all levels of government.

Since the backbone of school finance in the United States is the local property tax, a community without much property wealth can not count on a level of funding which will adequately provide for public schools. At the state level, revenues for public education are gathered primarily from sales tax, which can fluctuate dramatically depending on a variety of economic conditions. When both factors are considered jointly, it becomes apparent that it is vital that another method of funding be identified. Since funding for education relies primarily on income and sales taxes on the state level and on property taxes on the local level, the future of prosperity for education is definitely in question. Any programs which rely heavily on elastic sources of revenue, those susceptible to alterations in the economy, will continue to encounter many concerns and will remain vulnerable to economic variations. Legislators and citizens alike are resistant to tax increases, and attempts to increase the revenue collected through increasing the tax burden could prove unsuccessful as well as politically unpopular. Some large counties in Tennessee already contend that they suffer from the negative effects of municipal overburden, a condition which results from the additional financial load people residing in large, urban areas carry. However, the questions citizens may be forced to answer include: From what sources should additional tax revenues for education come? How much are citizens willing to pay to improve the quality of education? Are residents of the Southeast receptive to tax increases to fund education? Should there be a fiscal equalization program?

Although former Tennessee Governor Ned McWherter was unsuccessful in his efforts to pass an income tax, this should not be discounted as a possible future source of more revenue. McWherter recognized the problems facing education and educators in Tennessee and declared that the state's system of financing education through the sales tax was antiquated.

Several possibilities for providing additional education revenues exist. A statewide lottery has been suggested as one method of raising more money. Proponents contend that it has been successful in states surrounding Tennessee and that residents who now travel across state lines to play these games would keep their money within the state if such an opportunity existed. Opponents argue that the amount of money would not provide adequate additional funds and that it would present additional problems in terms of the cost of administering such a program and the appeal it often has to those groups which can least afford to play. In addition, some states have allowed money from gaming to replace more consistent and predictable forms of revenue. A flat income tax which affects all citizens equally by assessing an equal rate across the board is another suggestion which has been offered for financing education. People tend to resist additional taxes, however, because they see them as another layer of taxation atop an already heavy burden.

The traditional property-tax system of financing public schools has come under attack in at least 41 states, and other lawsuits may be filed soon. As these cases continue to be heard and adjudicated, several have even reached as far as their state Supreme Courts and reforms of a wide variety are being proposed and implemented. The primary objective behind these suits is an effort to achieve greater equity in funding for public education. Because of the numerous cases and the myriad attempts which have been and continue to be made to correct the disparity between systems within states, some have echoed the sentiments of Ernest Boyer, head of the Carnegie Foundation for the Advancement of Teaching, who questioned "whether we are smart enough to design a better way to fund public education" (Henderson, 1993, p. 1).

For most states, including several in the Southeast, the attempt to create a system which will afford more fairness in school funding is still in the early stages. Lawsuits brought by different groups are most likely to be resolved at the state level where the primary responsibility for providing a system of public education is found. These groups which have emerged to support adjustments in the funding formulas and methods have come from all areas and many different groups. In those states where funding cases have been heard and directives have been

issued with regard to the revenues which are collected from property taxes, many different proposals for funding schemes have been suggested. From very highly structured systems which require measurements of accountability and responsibility, to more laissez faire approaches, the future direction of public education funding may be somewhat unclear. Words like "adequate", "equitable", and "fair" abound in the cases brought by those public school districts which are less affluent in hopes that they may be able to effect a fairer distribution of moneys.

The school funding changes which have been implemented over the past quarter of a century have been necessitated by the increased cost of schools and the costs associated with the special services which government dictates must be provided for certain groups of students. Financial resources are not the only diminishing or scarce resources, but they are certainly among those which have the greatest impact on the performance of school districts and upon their ability to offer a high quality school instructional program. The fact is that the quality of education a child receives should not be contingent upon the area of the state in which he/she resides.

The next wave of litigation in Tennessee may take one of two directions. The equalization of teachers' salaries is a goal of the Tennessee Small School Systems and other groups. If adequate progress is not made toward this goal, additional court challenges may emerge. Also, if the negative impact of the Basic Education Program on large, urban school systems becomes significantly great, these systems may choose to return to court to seek relief for their own students. Tax increases seem to loom ahead whenever additional revenues are sought, but few legislators want to be closely identified with such trends, although even fewer seem to want to seriously curtail effective and popular programs and services.

Under Tennessee's current tax system, equity in educational expenditures may be achieved only through increasing inequity in taxation. However, educators, citizens, and politicians must be cognizant of educational funding issues if they hope to strive toward equity. A caution should be advanced to remind lawmakers that some states have experienced efforts at

equalization which have gone much too far. The attempt to remove local control will meet much serious opposition from residents of an area who desire to supplement their school system. The challenge before Tennessee is to maintain a system of public education which provides programs and services necessary for offering quality education to all students. At the same time, Tennessee must investigate whether its current tax structure is sound enough and strong enough to continue to fund the many programs which are so vital to the success of its citizens. K-12 education in this state has enjoyed five years of new money through the BEP and has seen many positive benefits, especially in the smaller, less affluent systems.

A final caveat remains: the Basic Education Program is scheduled to reach full funding in fiscal year 1997. However, many of the results which should be carefully evaluated can only be fairly assessed after more time has elapsed. For this reason, a follow-up study should be done in the next two to four years to insure that goals are being met, that local governments have assumed their share of the responsibility for public education, and that schools have utilized funds wisely and appropriately. The threat of intervention by Tennessee state government is a possibility if school systems do not take their duties seriously.

One additional factor which may impact Tennessee as the state seeks to establish equality in funding is the creation of national education goals. These involve many new programs which will be the responsibility of public education agencies. As a result, the adoption of these goals will require even more dollars if states must provide preschool for 3 and 4 year olds, increase the emphasis on thinking and problem solving, strive to make America first in the world in math and science, and improve the high school graduation rate. Unfortunately, these programs will place even more pressure on states in which the drain on resources is already stretched to the limit.

As Tennessee moves toward the next century, certainly new and innovative funding methods must be investigated, not only for education, but also for other areas supported by state government. Health care and prisons are always at the top of the list of priorities which must be addressed. The possibility that adequate revenue may not be available to fund each of



BEST COPY AVAILABLE

these at an acceptable level means that choices must be made. An income tax looms as one of the most promising sources of providing sufficient revenues to support and fund all programs required and mandated for Tennessee. The task ahead is to continue to strive to provide a high level of education. The financial means by which we can do so may face serious challenges, but citizens should be reminded that education is a means of offering a higher quality of life to those who seek its benefits. Adequate, equitable funding for public K-12 education must be maintained so that large, urban systems and small, rural systems can all benefit.

## References


Alexander, Kern. (1976) The value of an education. Journal of education finance.

Alford, A. L. (1963) Nonproperty taxation for schools: possibilities for local application. Washington, D.C.: U.S. Government Printing Office.

American Legislative Exchange Council. (1989) F.Y.I.: a bulletin for ALEC leaders about state, federal and local issues. Washington, DC: American Legislative Exchange Council.

Annual Report of Funding Needs for Education in Grades K-12. (1989) Tennessee Advisory Commission on Intergovernmental Relations.

Bird, R. (November 1983) Expenditures for public schools in the southeast. SEIS Progress Report. Research Triangle Park. N.C.: Southeastern Regional Council for Educational Improvement (p. 1-14).

Chattanooga News-Free Press. Four key words. August 6, 1991, p. A4.

Chattanooga News-Free Press. Albright: schools tax not cure-all. September 12, 1991, p. A1.

Cheek, Duran. Small schools win case. The Tennessean. July 26, 1991, p. A1.

Connelly, M. J. (Spring 1990) Recent developments in school finance litigation: the Kentucky and Texas cases. Education considerations.

Conner, Ross F., ed. Methodological Advances in Evaluation Research. Beverly Hills: Sage Publications, 1981.

The funding needs report for Tennessee public schools. (1995) Tennessee Advisory Commission on Intergovernmental Relations.

Green, H.A., et al. (1995) Funding Tennessee schools: from reform to restructuring. Tennessee Advisory Commission on Intergovernmental Relations.

Grubb, W. N., and Michelson, S. (1974) States and schools. Lexington, Massachusetts: Lexington Books.

Henderson, Keith. In many states, lawsuits contest the fairness of school funding. Christian Science Monitor. March 23, 1993. pp. 1+.

Johns, R. L. (1965) Indirect measures of local ability to support schools. Trends in Financing Public Education. Washington, D.C.: National Education Association.

Jordan, K. F., and Lyons, T. S. (1992) Financing public education in an era of change. Bloomington, Indiana: Phi Delta Kappa Educational Foundation.

Kentucky Legislative Research Commission. A guide to the Kentucky Education Reform Act of 1990. Frankfort, Kentucky, April 1990.

McMahon, W. W., and Geske, T.G. Financing education: overcoming inefficiency and inequity. Chicago, Illinois: University of Illinois Press, 1982.

Miles, Matthew B., and Huberman, Michael. (1994) Qualitative Date Analysis, Second Education. Thousand Oaks, SAGE Publications, Inc.

Reddick, T. L., and Fletcher, R. K., Jr. (November 1979) A comparison of occupational groups with regard to knowledge of public school finance in the upper cumberland region of Tennessee. Paper presented at the Annual Convention of the Mid-South Educational Research Association (pp. 1-11).

Reddick, T. L., and Peach, L. E. (November 11, 1981) Attitudes of county commissioners in twenty counties in middle Tennessee concerning public school financial issues. Paper presented at the Annual Convention of the Mid-South Educational Research Association (pp. 1-11).

TEA News. School funding ruling may bring relief - but not immediately. August 1991, Vol. 23, #1, p. 4.

TEA News. Should state pick up 100% of school costs? Nov. 1993, Vol 25, #4, p. 1+.

TEA News. TEA Rally: money does matter. March 1992, Vol. 24, #8, pp. 7-10.

Tennessee School Finance Equity Study. (1979) Tennessee Advisory Commission on Intergovernmental Relations.

Tennessee Teacher. Pros and cons: an analysis of the Education Improvement Act of 1991. September 1993, Vol. 61, #1, pp. 13+.

U.S. Bureau of the Census. (1988) State government finances in 1987. Washington, DC: U.S. Government Printing Office.

Young, E. (May 8, 1990) Perspectives on school funding disparities. Tennessee Advisory Commission on Intergovernmental Relations.

Zlatkovick, C. P., and Putnam, K. B. (Summer 1989) State and local government tax trends, Association of Government Accountants Journal (pp. 9-15).

# Appendix A

**Interview Schedule**

The questions below are those which the researcher included in the interviews which were conducted in relation to the study of the *Tennessee Small School Systems v. McWherter* lawsuit.

1. What is your official position/title or job?

2. How were you involved in the school funding lawsuit?

3. Had you been associated with or involved with K-12 public education in Tennessee prior to this time? In what position or capacity?

4. What role did you play in the *Tennessee Small School Systems v. McWherter* lawsuit.?

5. What factors or circumstances motivated you to become involved in this legal issue?

6. Did you testify during the legislative or court hearings associated with this lawsuit? In what capacity?

7. If you testified in this lawsuit, do you have or could I obtain a copy of your testimony?

8. What party (plaintiff or defendant) were you most closely involved with during the *Tennessee Small School Systems v. McWherter* lawsuit?

9. What do you now perceive to be the major issues/policies associated with school funding in Tennessee?

10. Prior to Chancellor High's ruling and subsequent related hearings, what did you believe might be the outcome of this lawsuit challenging the public education funding formula used in Tennessee? (The purpose of this question is to ascertain whether any preconceived ideas guided the interviewee's actions in connection with this case.)

11. In your opinion, what were the most significant factors in this case which directly impacted the final decision which was rendered?

12. What individuals do you believe played a major role on each side in this case? (The purpose of this question is to help identify any other individuals who might need to interviewed.)

13. Do you believe the timing of this lawsuit had any impact on the eventual outcome?

14. Were you aware of similar cases in other states which were viewed as important to or guidelines for this case?

15. What obstacles or opposition did you encounter during your involvement with this lawsuit? (The purpose of this question is to identify any pressures or influences which might have been present, e.g.: a legislator who agreed with the plaintiffs but felt obligated to support the defendants because of the constituency he/she represented.)

16. Specifically, what changes have occurred as a result of this lawsuit (either positive or negative)?

17. In your opinion, which groups stood to benefit or suffer most from the results of this lawsuit?

18. What changes (positive or negative) did you anticipate might take place as a result of the enactment of the BEP? Have these actually occurred?

19. What future changes do you foresee in K-12 public education once full funding of the BEP has been reached?

20. Do you anticipate additional challenges to Tennessee's school funding formula in the future? What do you anticipate these might be? Do you have any idea what impact these might have on K-12 public education?

## Appendix B

## Tennessee Small School Systems v. McWherter
## Chancery Court, 20th Judicial District, Davidson County, Part II
## Case No. 88-1812-II

**The Case** was filed July 8, 1988, by seventy-seven (77) small school districts, against the State of Tennessee collectively seeking declaratory judgment that state K-12 school funding is inequitable under the Education and Equal Protection clauses of the State Constitution. Large school districts were allowed to intervene and join the defense. On July 25, 1991, decision was rendered for the plaintiffs, and after a second hearing an order was filed on September 13, 1991.

**The Facts:** Education was first authorized in Tennessee's revised constitution of 1835, and retained in the revised constitution of 1870 after the Civil War. The first public school act passed in 1873 established a "uniform" state-wide system of public education. In cases interpreting the 1873 school law as well as its successor passed in 1925, Tennessee courts have ruled consistently that the word "uniform" means that students are to receive the same scope and quality of education regardless of whether they attend school in small, poor, or rural districts, or in large, affluent, or urban districts. School legislation currently in the Tennessee Code is based on the 1925 Act.

At the time this lawsuit was filed Tennessee public schools received funds primarily from three sources; the federal government through categorical grants (10%), state government through the Tennessee Foundation Program (TFP) and categorical grants (45%), and local government primarily from local property and sales taxes (45%). TFP and local sales and property taxes are distributed to school districts on the basis of Average Daily Attendance (ADA) in the district. Because efforts to "equalize" TFP distributions to school districts have had small impact, and other revenues are not equalized at all, wide disparities in per-pupil funding exist between school districts with large or affluent tax bases and those with small or unaffluent ones.

**Legal Question(s):**

1. Under the constitution and laws of the state of Tennessee:
   - A. Does the constitution's Education clause create a right to a public education?
   - B. Is the promised education to be available to all and equal for each?
   - C. Do the 1978 constitutional changes, particularly omission of the word "uniform" from the Education clause, change the nature of the right extended to pupils?
2. Does that right to a public education, if it exists, rise to a level such that denial of it is a denial of the "equal protection of the law" as promised by the Tennessee constitution?
   - A. Does the existing funding program create a "suspect classification" or "impact a fundamental right" requiring the Court to use "Strict Scrutiny"?
   - B. Under Strict Scrutiny is state funding justified by a "compelling state interest"?
3. Is the denial of equal protection, if any, "caused" by funding disparities?
4. Are disparities correctable locally, or must funding be "equalized" at the state level?

**Ruling(s):**

1. A. Yes.
   B. Yes. That is what the word "uniform" means. Tennessee courts have ruled consistently that schools should be equal regardless of location or situation.
   C. No. The changes' meaning is unclear, but need not be resolved here. Since the implementing legislation has not changed, the school system must remain uniform.
2. A. Yes. Education in Tennessee is a fundamental right, denial of which is a violation of the equal protection clauses.
   B. No. No compelling state interest in the current state funding structure was shown.
3. Yes. Disparities in funding result in correlative disparities in local school offerings.
4. At the state level. Disparities are such that they cannot be corrected by local effort.

**Decision:** For the plaintiff Small School Systems. Intervenors' claims are dismissed. The Legislature must provide for a constitutional system of public education prior to June 30, 1992.



BEST COPY AVAILABLE

## Appendix C

# State of Tennessee

HOUSE JOINT RESOLUTION NO. 191

By Representatives Purcell, Ridgeway, DeBerry, Kisber, Pinion, Brown, Ferguson, Miller, Ulysses Jones, Mike Williams, Mires, Phelan, Ronnie Cole, Owenby Fisher, Ritchie, Brooks, Brenda Turner, Stulce and Mr. Speaker Naifeh

A RESOLUTION to provide for an annual report by the Tennessee Advisory Commission on Intergovernmental Relations and the Office of the Comptroller on receipts into and expenditures from the dedicated education trust fund.

WHEREAS, allegations have been made that past tax increases that passed in the name of education improvement have not been consistently expended for that purpose; and

WHEREAS, in enacting the Education Improvement Act in 1992, the General Assembly took cognizance of this concern by providing that state and local funds appropriated for education would go into dedicated funds to be used for education only; and

WHEREAS, the revenues from the one-half cent (1/2¢) increase in the state sales tax in 1992 were similarly dedicated to this fund; and

WHEREAS, it has been the experience of the General Assembly that prior increases in various taxes which were earmarked for specific programs have not always been allocated to these programs after initial implementation or other funds which were appropriated to such programs have been reduced proportionately to the new earmarked revenues; and

WHEREAS, the General Assembly wishes to ensure that all funds raised in the name of education will continue to be devoted to that purpose and that funds previously appropriated to education continue to be available; and

WHEREAS, the General Assembly also wishes to be certain that funds allocated to local education agencies are spent in compliance with state and federal law; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, That the Tennessee Advisory Commission on Intergovernmental Relations and the Office of the Comptroller shall compile and distribute to the Governor and General Assembly an annual report which details appropriations by the state and local governments for education, the receipt into and expenditures of funds from the state and local dedicated education trust funds, and compliance of local education agencies in spending funds in accordance with state and federal law.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Executive Director of the Tennessee Advisory Commission on Intergovernmental Relations and to the State Comptroller.



BEST COPY AVAILABLE

Appendix D

## Major Sources for Funding K-12 Education
## State of Tennessee

| | STATE | | LOCAL | | FEDERAL | | TOTAL |
|---|---|---|---|---|---|---|---|
| 1988-89 | $1,291,053,100 | 49.3% | $1,095,936,642 | 41.9% | $229,729,800 | 8.8% | $2,616,719,542 |
| 1989-90 | $1,360,934,700 | 48.9% | $1,175,667,534 | 42.2% | $248,908,400 | 8.9% | $2,785,510,634 |
| 1990-91 | $1,400,021,700 | 47.9% | $1,243,766,205 | 42.5% | $279,436,400 | 9.6% | $2,923,224,305 |
| 1991-92 | $1,336,518,500 | 44.7% | $1,346,506,488 | 45.1% | $303,978,100 | 10.2% | $2,987,003,088 |
| 1992-93 | $1,570,246,300 | 48.0% | $1,376,043,443 | 42.0% | $327,073,600 | 10.0% | $3,273,363,343 |
| 1993-94 | $1,724,556,900 | 48.7% | $1,476,801,561 | 41.7% | $341,750,800 | 9.6% | $3,543,109,261 |
| 1994-95 | $1,878,614,500 | 49.6% | $1,565,981,683 | 41.3% | $345,715,700 | 9.1% | $3,790,311,883 |
| 1995-96 | $1,985,470,100 | 49.7% | $1,659,879,967 | 41.5% | $351,698,000 | 8.8% | $3,997,048,067 |
| 1996-97* | $2,154,105,200 | 49.9% | $1,759,542,000 * | 40.8% | $402,166,600 * | 9.3% | $4,315,813,800 |
| 1997-98** | $2,327,150,300 | 50.6% | $1,865,167,000* | 40.6% | $403,956,400* | 8.8% | $4,596,273,700 |
| | ***Percent Growth in Funding*** | | | | | | |
| 1989-98 | $1,036,097,200 | 80.3% | $769,230,358 | 70.2% | $174,226,600 | 75.8% | $1,979,554,158 |
| 1992-98 | $990,631,800 | 74.1% | $518,660,512 | 38.5% | $99,978,300 | 32.9% | $1,609,270,612 |

*estimated
**proposed in governor's budget

[8] See Harry A. Green, "Tax Reform and Education Funding: What are the Options?", Tennessee's Business Middle Tennessee State University, (Spring 1991). Also see Steven D. Gold, Tax Options for States Needing More School Revenues NEA, (1994).

BEST COPY AVAILABLE